

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARIA DE LA O, et al.,
Plaintiffs,

v.

ROBIN ARNOLD-WILLIAMS, et
al.,
Defendants.

NO. CV-04-0192-EFS

**ORDER GRANTING MOTION TO AMEND
COMPLAINTS AND DENYING STAY
REQUESTS**

MARIA FERNANDEZ, et al.,
Plaintiffs,

v.

DEPARTMENT OF SOCIAL AND
HEALTH SERVICES, et al.,
Defendants.

[NO. CV-05-0280-EFS]

On May 29, 2007, the Plaintiffs and Defendants entered into a Stipulation of Dismissal and to Permit Filing of Amended Complaint (Ct. Rec. 720). Plaintiffs seek to dismiss Judy Esser, Randall Blackburn, and Steve Jensen (hereinafter "the individual Mattawa Defendants"). The individual Mattawa Defendants previously filed a Notice of Appeal regarding the Court's denial of qualified immunity. (Ct. Rec. 568.) Generally, such an appeal would deprive this Court of jurisdiction over

1 matters involved in the appeal, thereby requiring a stay of this
2 proceeding, as was previously requested by Defendants. See *Behrens v.*
3 *Pelletier*, 516 U.S. 299 (1996); *Mitchell v. Forsyth*, 472 U.S. 511 (1985).
4 However, the appeal does not prevent the parties from entering into a
5 stipulation. As a result of this stipulation, not only are the claims
6 against the individual Mattawa Defendants dismissed, but the individual
7 Mattawa Defendants dismiss their counterclaims as well. Given that this
8 stipulation moots the appeal, the Court determines (1) it has authority
9 to allow Plaintiffs to amend their Complaints consistent with this
10 stipulation and (2) a stay is unnecessary. Accordingly, **IT IS HEREBY**
11 **ORDERED:**

12 1. Plaintiffs' Motion to Amend Plaintiffs' Complaints by
13 Dismissing Fourth Amendment Claims Against Defendants Esser, Jensen, and
14 Blackburn (**Ct. Rec. 643**) is **GRANTED** given the parties stipulation.
15 Plaintiffs are directed to electronically file their proposed amended
16 complaints (Ct. Recs. 692 & 696) using the "amended complaint" event in
17 the appropriate case file.

18 2. State Defendants' Motion to Stay (**Ct. Rec. 619**) and Mattawa
19 Defendants' Motion to Set Aside (Vacate) Current Scheduling Order (**Ct.**
20 **Rec. 624**) are **DENIED AS MOOT**.

21 3. If the parties have not already done so, they shall advise the
22 Ninth Circuit of the parties' stipulation and provide a copy thereof if
23 necessary.

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1 **IT IS SO ORDERED.** The District Court Executive is directed to enter
2 this Order and provide copies to counsel.

3 **DATED** this 1st day of June 2007.
4

5 S/ Edward F. Shea

6 EDWARD F. SHEA

7 United States District Judge

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